United Nations CEDAW/C/AUS/CO/8

Convention on the Elimination of All Forms of Discrimination against Women

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Committee on the Elimination of Discrimination against Women

Concluding observations on the eighth periodic report of Australia*

1. The Committee considered the eighth periodic report of Australia (CEDAW/C/AUS/8) at its 1602nd and 1603rd meetings (see CEDAW/C/SR.1602 and CEDAW/C/SR.1603), held on 3 July 2018. The Committee's list of issues and questions is contained in CEDAW/C/AUS/Q/8 and the responses of Australia are contained in CEDAW/C/AUS/Q/8/Add.1.

A. Introduction

2. The Committee appreciates the submission by the State party of its eighth periodic report, although it was submitted with a two-year delay. It also appreciates the State party's follow-up report (CEDAW/C/AUL/CO/7/Add.1) and its written replies to the list of issues and questions raised by the pre-sessional working group, as well as the oral presentation by the delegation and the further clarifications provided in response to the questions posed orally by the Committee during the dialogue.

3. The Committee commends the State party on its delegation, which was headed by the First Assistant Secretary of the Office for Women within the Department of the Prime Minister and Cabinet, Trish Bergin. The delegation also included representatives of the Indigenous Affairs Group, the Department of the Prime Minister and Cabinet, the Department of Social Services, the Department of Home Affairs, the Department of Foreign Affairs and Trade and the Embassy of Australia in Paris.

B. Positive aspects

4. The Committee welcomes the progress achieved since the consideration in 2010 of the State party's seventh periodic report (CEDAW/C/AUL/7) in undertaking legislative reforms, in particular the adoption of the following:

(a) Amendments to the Marriage Act 1961, guaranteeing the right to marry for all couples, regardless of gender, in 2017;

* Adopted by the Committee at its seventieth session (2–20 July 2018).

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(b) Amendments to the Crimes (Domestic and Personal Violence) Act 2007 of the New South Wales legislature, extending the powers of the police to detain defendants in cases of gender-based violence so as to ensure the immediate safety of the victim and promoting the exchange of information between support services, in 2014;

(c) Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Act, criminalizing forced marriage, in 2013;

(d) Amendments to the Sex Discrimination Act 1984, prohibiting discrimination on grounds of sexual orientation, gender identity and intersex status, in 2013;

(e) Workplace Gender Equality Act, in 2012;

(f) Paid Parental Leave and Other Legislation Amendment Act, introducing the paid parental leave scheme and the "dad and partner" pay programme, in 2012;

(g) Amendments to the Sex Discrimination Act 1984, prohibiting direct discrimination against employees on the basis of their family responsibilities and strengthening protection against sexual harassment in the workplace and in schools, in 2011;

(h) Amendment to the Family Law Act, introducing a definition of family violence that includes examples of behaviour that may constitute family violence, including physical, emotional and economic abuse, in 2011.

5. The Committee welcomes the State party's efforts to improve its institutional and policy framework aimed at accelerating the elimination of discrimination against women and promoting gender equality, such as the adoption of the following:

(a) Australian Government strategy ("Towards 2025") to boost the participation of women in the workforce, in 2017;

(b) National action plan to combat human trafficking and slavery (2015-2019), in 2014;

(c) National action plan on women, peace and security (2012–2018), in 2012;

(d) National plan to reduce violence against women and their children (2010-2022), in 2011, and its third three-year action plan (2016–2019), in 2016.

6. The Committee welcomes the fact that, in the period since the consideration of the previous report, the State party has ratified the following international instruments:

(a) Optional Protocol to the Convention against Torture, in 2017;

(b) Paris Agreement, in 2016.

Sustainable Development Goals

7. The Committee welcomes the international support for the Sustainable Development Goals and calls for the realization of de jure and de facto substantive gender equality, in accordance with the provisions of the Convention, throughout the process of implementing the 2030 Agenda for Sustainable Development. The Committee recalls the importance of Goal 5 and of the mainstreaming of the principles of equality and non-discrimination throughout all 17 Goals. It urges the State party to recognize women as the driving force of the sustainable development of the country and to adopt relevant policies and strategies to that effect.

C. Parliament

8. **The Committee stresses the crucial role of the legislative power in ensuring the full implementation of the Convention (see the statement by the Committee on its relationship with parliamentarians, adopted at the forty-fifth session, in 2010). It invites Parliament, in line with its mandate, to take the necessary steps regarding the implementation of the present concluding observations between now and the submission of the next periodic report.**

D. Principal areas of concern and recommendations

Withdrawal of reservations

9. The Committee welcomes the State party's commitment to repealing restrictions on combat roles in the Australian Defence Force. It remains concerned, however, about the lack of measures taken to withdraw its reservation to article 11 (2) of the Convention.

10. **The Committee recommends that the State party:**

(a) **Expedite the adoption of an amendment to the Sex Discrimination Act allowing women to assume combat roles and withdraw its corresponding reservation to article 7 (b) of the Convention;**

(b) **Expedite the legislative steps necessary to withdraw its reservation to article 11 (2) of the Convention.**

Constitutional and legal framework for gender equality

11. The Committee notes the following with concern:

(a) That, in the absence of a charter of human rights, the Constitution of the State party does not contain a guarantee of equality between women and men or a general prohibition of discrimination against women;

(b) The absence of constitutional recognition of the rights of the First Nations, as a result of which indigenous women are deprived of their rights;

(c) The lack of harmonization of anti-discrimination legislation;

(d) Gaps in the effectiveness of the Sex Discrimination Act;

(e) The limitations on the role of the Parliamentary Joint Committee on Human Rights.

12. **Recalling its general recommendation No. 28 (2010) on the core obligations of States parties under article 2 of the Convention, the Committee recommends that the State party:**

(a) **Fully incorporate the Convention into national law by adopting a charter of human rights that includes a guarantee of equality between women and men, as required by article 2 of the Convention, and prohibits discrimination against women, in accordance with article 1 of the Convention;**

(b) **Recognize First Nations in the Constitution to enable indigenous women to claim their rights;**

(c) **Harmonize federal, state and territory legislation against discrimination, on the basis of best practices that are in line with the Convention;**

(d) **Implement the remaining recommendations for enhancing the effectiveness of the Sex Discrimination Act that were made in 2008 by the Standing Committee on Legal and Constitutional Affairs;**

(e) **Strengthen the capacity of the Parliamentary Joint Committee on Human Rights to comment on bills, ensure that its assessments are systematically given due consideration and allow it to conduct own-motion inquiries into legislation and broader human rights issues.**

Access to justice

13. The Committee welcomes the initiatives of the Australian Capital Territory and the Northern Territory to fund translation and interpretation services in courts and tribunals, as well as in specialist family and domestic violence services. It is concerned, however, about the following:

(a) The lack of culture- and gender-sensitive legal processes at the national level and the non-recognition of Aboriginal customary laws that are in line with international human rights obligations, resulting in mistrust in the justice system among indigenous women and girls;

(b) Budget cuts that limit access for women and girls to legal aid for employment litigation, welfare benefit litigation and criminal and family law disputes;

(c) The merger of the family courts and federal circuit courts before the results of the first comprehensive review of the family law system and its responsiveness to the contemporary needs of families became available.

14. **The Committee recommends, in line with its general recommendation No. 33 (2015) on women's access to justice, that the State party:**

(a) **Implement the recommendations made in 1996 by the Australian Law Reform Commission on the recognition of Aboriginal customary laws and extend culturally sensitive judicial processes to all jurisdictions, using the Koori courts in Victoria and the circle sentencing programme in the Australian Capital Territory and in New South Wales as a model;**

(b) **Implement the recommendations made in 2014 by the Productivity Commission in the report on its inquiry into access to justice arrangements, including by ensuring adequate funding for legal aid commissions and community-based legal services;**

(c) **Postpone the reorganization of the family court system to take into account the results of the Australian Law Reform Commission's review of the family law system, due to be released in March 2019.**

National machinery for the advancement of women

15. The Committee welcomes the relocation of the Office for Women to the Department of the Prime Minister and Cabinet in order to promote gender mainstreaming in all government policies and programmes. It is concerned, however, that the Office for Women is unable to carry out that mandate efficiently or to coordinate, on the basis of measurable targets, policies and mechanisms for gender equality throughout the State party. It is also concerned about the absence of a comprehensive national gender equality policy and of a targeted action plan, with indicators, to address the structural factors that perpetuate inequalities between women and men.

16. **The Committee recommends that the State party, in line with the Committee's general recommendation No. 28, adopt a comprehensive national gender equality policy with performance indicators to address the structural factors resulting in inequalities between men and women and ensure that the Office for Women has a strong mandate and sufficient human and financial resources to coordinate and monitor the implementation of that policy throughout the territory of the State party.**

National human rights institution

17. The Committee is concerned about past reductions in the public financial resources allocated to the Australian Human Rights Commission, making it dependent on the fundraising and support of private entities and thereby endangering its independence.

18. **The Committee recommends that the State party allocate the human, technical and financial resources necessary to enable the institution to discharge its mandate on women's rights and gender equality effectively and with full independence, in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).**

Women human rights defenders

19. The Committee welcomes the establishment, in 2015, of the Office of the eSafety Commissioner to ensure online safety for users. It is concerned, however, about the following:

(a) Provisions in the National Partnership Agreement on Legal Assistance Services that restrict the ability of civil society organizations to advocate for women's rights;

(b) The risk that the ongoing review of the electoral legislation amendment bill will place further restrictions on the freedom of expression of civil society organizations;

(c) Online harassment and abuse of women advocating for women's rights.

20. **In line with the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, the Committee recommends that the State party:**

(a) **Remove provisions from the National Partnership Agreement on Legal Assistance Services that restrict the ability of civil society organizations to advocate for women's rights;**

(b) **Ensure that civil society organizations can exercise the right to freedom of expression;**

(c) **Reinforce the activities of the eSafety Commissioner to protect women human rights defenders, raise awareness of their important role in the protection and promotion of women's human rights and protect them from violations of those rights by third parties.**

Temporary special measures

21. The Committee welcomes the special recruitment of women by the Federal Police in September 2017. It is concerned, however, that temporary special measures

may not be used sufficiently to accelerate progress towards substantive gender equality.

22. **The Committee recalls its previous recommendation (CEDAW/C/AUL/CO/7, para. 27) and recommends that the State party put into place temporary special measures to accelerate the equal participation of women in political and public life, education, employment and the health sector, including with regard to women facing intersecting forms of discrimination.**

Stereotypes

23. The Committee takes note of the State party's initiatives to challenge negative attitudes that exacerbate gender-based violence against women. It is concerned, however, that the absence of a holistic strategy to address negative social and cultural patterns in public discourse, the media, the workplace, schools, universities, health institutions and the judiciary exacerbates discrimination against various groups of women on the basis of their gender, belonging to an indigenous group, migration, asylum or social status, religion, ethnicity, nationality, colour, age, disability, sexual orientation or gender identity.

24. **The Committee recommends that the State party develop a comprehensive strategy to overcome discriminatory stereotypes regarding the roles and responsibilities of women and men in the family and society and raise awareness of the benefits for Australian society of respecting and protecting the diversity of its population, aiming at the full inclusion of Aboriginal and Torres Strait Islander women, migrant women and their daughters, including those born in the State party, women belonging to ethnic minority groups, refugee and asylum-seeking women, women with disabilities, foreign women, older women, women in poverty, women belonging to religious minority groups, lesbian, bisexual and transgender women and intersex persons.**

Harmful practices

25. The Committee takes note of the State party's commitment to providing support for women who are victims of forced marriage, regardless of their cooperation with the prosecution authorities. It is concerned, however, about the following:

(a) The low number of prosecutions of cases of forced marriage;

(b) The lack of systematic data collection on the number of women who have been subjected to forced marriage or female genital mutilation;

(c) The conduct of medically unnecessary procedures on intersex infants and children before they reach an age when they are able to provide their free, prior and informed consent, as well as inadequate support and counselling for families of intersex children and inadequate remedies for victims;

(d) The non-consensual administration of contraceptives to, performance of abortions on and sterilization of women with disabilities.

26. **Recalling the joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child (2014) on harmful practices, the Committee recommends that the State party ensure adequate protection and support for victims of forced marriage, regardless of their collaboration with the prosecution authorities, and also recommends that the State party:**

(a) **Build the capacity of immigration and child protection workers, law enforcement officers and community organizations working on domestic**

violence, health and education to detect and respond to cases of early and forced marriage and investigate and prosecute such cases;

(b) **Ensure that the multi-agency data integration project enables the systematic and periodic collection of data on harmful practices in the State party, disaggregated by age, ethnicity, disability and migration status;**

(c) **Adopt clear legislative provisions that explicitly prohibit the performance of unnecessary surgical or other medical procedures on intersex children before they reach the legal age of consent, implement the recommendations made by the Senate in 2013 on the basis of its inquiry into the involuntary or coerced sterilization of intersex persons, provide adequate counselling and support for the families of intersex children and provide redress to intersex persons having undergone such medical procedures;**

(d) **Abolish the practices of the non-consensual administration of contraceptives to, the performance of abortion on and the sterilization of women and girls with disabilities, and develop and enforce strict guidelines on the sexual and reproductive health rights of women and girls with disabilities who are unable to consent.**

Gender-based violence against women

27. The Committee welcomes the establishment by the Council of Attorneys-General of a family violence working group of senior justice officials in 2017 to prevent the separation of federal, state and territory child protection and family violence systems from placing children and families at increased risk. It notes with concern, however, that:

(a) Three out of 10 women in the State party have suffered physical violence, 1 out of 5 women have experienced sexual violence, 1 out of 4 women have experienced violence perpetrated by an intimate partner, and 82 per cent of women who have experienced violence perpetrated by their current partner have not reported that violence to the police;

(b) The lack of national legislation prohibiting all forms of gender-based violence against women precludes the equal protection of women and girls throughout the State party;

(c) The future national data collection and reporting framework for family violence and sexual assault does not include data on femicide, and it is unclear whether data on violence against women with disabilities will be systematically collected;

(d) Shelters for homeless persons, including men, are used as shelters for women and girls who are victims of violence, and the national action plan to reduce violence against women and their children does not sufficiently address the need for specialized victim support services;

(e) Discriminatory stereotypes lead to the perception among members of the judiciary that women are responsible for violence that they suffer, in the absence of capacity-building on the Family Law Act and on the gender-sensitive treatment of victims of violence.

28. **Recalling its general recommendation No. 35 (2017) on gender-based violence against women, updating general recommendation No. 19, the Committee recommends that the State party:**

(a) **Reinforce efforts to change behaviours and attitudes that lead to violence against women and their children and encourage reporting by launching**

awareness-raising campaigns on reporting mechanisms and remedies, in collaboration with the media;

(b) **Adopt federal legislation that is in line with the Convention and prohibits all forms of gender-based violence against women and girls, and shift the power to legislate on this matter to the Federal Parliament;**

(c) **Expedite the establishment of the national data collection framework and guarantee that data on femicide and violence against women with disabilities is systematically collected under the framework;**

(d) **Allocate adequate resources for the implementation of outcome 4 of the national action plan to reduce violence against women and their children and enhance efforts to ensure the availability of women-only and women-led support services for victims of gender-based violence;**

(e) **Strengthen capacity-building for the judiciary, including for "single expert witnesses", and for law enforcement officers on the strict application of the Family Law Act and on gender-sensitive responses to family violence.**

Extraterritorial obligations, extractive industries and climate change

29. The Committee is concerned about the following:

(a) The gendered social and environmental impact of the State party's projects in extractive industries, owing to displacement and the loss of livelihood opportunities and social services among local women, resulting in discrimination against them and their exclusion and marginalization, as well as fuelling conflict and conflict-related gender-based violence against women;

(b) The fact that corporations in the extractive industries that are registered or domiciled within the State party and receive public financial subsidies are carrying out major projects in Papua New Guinea and South Africa without identifying landowners or consulting women on the management of mines or benefit-sharing and in the absence of the prior informed consent of local women;

(c) The lack of a human rights-based perspective on climate change that takes into consideration the most vulnerable women, including those in the State party; the State party's greenhouse gas emissions of 1.4 per cent of global emissions, without accounting for the emissions embedded in exports; the high level of those emissions in relation to the State party's population of 0.3 per cent of the world population, in part owing to the continued dependency on coal for domestic use and exports; and the limited impact of the State party's humanitarian assistance on surrounding small island States.

30. **In line with its general recommendation No. 37 (2018) on the gender-related dimensions of disaster risk reduction in the context of climate change and general recommendation No. 30 (2013) on women in conflict prevention, conflict and post-conflict situations, the Committee recommends that the State party:**

(a) **Develop a national action plan on business and human rights that incorporates a gender perspective, on the basis of the 2030 Agenda and in line with the recommendation made in the context of the second review cycle of the universal periodic review of the Human Rights Council (A/HRC/31/14, recommendation 136.212), and ensure that all large-scale development and extractive industry projects are implemented with the prior informed consent of the local women affected, reflect adequate benefit-sharing arrangements and are preceded by a thorough gender impact assessment involving rural and indigenous women, recognizing their leadership in those processes, in line with general recommendation No. 34 (2016) on the rights of rural women;**

(b) **Establish a specialized mechanism to investigate violations of women's human rights by corporations that are based or registered in the State party or receive subsidies from it, bring perpetrators to justice and expeditiously ensure compensation and rehabilitation for women who are victims of such violations, including the victims of the Bougainville conflict, in line with general recommendation No. 28;**

(c) **Adopt a human rights-based approach in the development of climate change responses, make women the central force for the development and implementation of activities relating to climate change at the local, national, regional and international levels, further reduce greenhouse gas emissions, notably those resulting from coal consumption and exports, and reinforce support for gender-sensitive disaster risk reduction and climate change adaptation within the State party and in surrounding small island States.**

Trafficking and exploitation of prostitution

31. The Committee welcomes the State party's leadership in the Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime. It is concerned, however, about the following:

(a) The lack of a gender perspective in the reports issued by the Interdepartmental Committee on Human Trafficking and Slavery;

(b) The high vulnerability threshold, which prevents victims of trafficking from gaining access to status resolution support services and puts them at risk of re-trafficking;

(c) The very short reflection period of 45 days for victims of trafficking, and access to visas and compensation schemes being based on the condition of their cooperation with the prosecution authorities;

(d) The insufficient compensation schemes for victims of trafficking and the lack of harmonization in that regard;

(e) Prevailing attitudes among members of the judiciary and law enforcement officials regarding victims of trafficking as offenders and migrants with irregular migration status, rather than as victims, which constitutes an obstacle to reporting and to the early identification and referral of victims of trafficking to the appropriate social and legal services;

(f) The low prosecution rate in trafficking cases;

(g) The delay in the adoption of the modern slavery bill.

32. **The Committee recommends that the State party:**

(a) **Integrate the Office for Women into its Interdepartmental Committee on Human Trafficking and Slavery and ensure that the Office issues gender-sensitive recommendations;**

(b) **Lower the vulnerability threshold for women to gain access to status resolution support services;**

(c) **Extend the reflection period to at least 90 days and ensure that all victims of trafficking, irrespective of their willingness or unwillingness to cooperate with the prosecution authorities, have access to the human trafficking visa framework;**

(d) **Establish a federal compensation scheme for survivors of trafficking that grants appropriate reparations, and delink victims' gaining access to compensation from their cooperation in criminal proceedings;**

(e) Encourage reporting by raising awareness of the risks of trafficking among vulnerable communities and train judges and law enforcement officials in the early identification of victims of trafficking and their referral to appropriate social and legal services and in gender-sensitive investigation methods;

(f) Ensure that traffickers are prosecuted and adequately punished;

(g) Expedite the adoption of the modern slavery bill;

(h) Intensify international, regional and bilateral cooperation with countries of origin, transit and destination, in particular with countries in the region, including by exchanging information and harmonizing legal procedures for prosecuting traffickers, in order to prevent trafficking.

33. The Committee is concerned that the lack of harmonization of state and territory legislation on women in prostitution impedes their access to health care, support and legal services and employment. It is also concerned that the State party has not taken measures to address the demand for prostitution, in order to prevent women and girls from entering prostitution and support those who wish to exit prostitution.

34. **The Committee recommends that the State party harmonize state and territory legislation to ensure that women in prostitution have non-discriminatory access to health-care, support and legal services, and employment. In addition, it reiterates its previous recommendation (CEDAW/C/AUL/CO/7, para. 33) that the State party encourage the economic empowerment of women and reinforce measures to prevent poverty.**

Participation in political and public life

35. The Committee welcomes the commitment of the two main political parties to gender parity in Parliament by 2025. It is concerned, however, about the slow increase in the representation of women in the Federal Parliament (32 per cent), state and territory parliaments (33 per cent) and the federal Cabinet (23 per cent) of the State party. The Committee is also concerned about the lack of information on the representation of indigenous women and women with disabilities in political and public life and on the participation of migrant women and their daughters, including those born in the State party, in public life.

36. **The Committee recommends that the State party collect data on the representation of indigenous women and women with disabilities in political and public life. It reiterates its previous recommendation (CEDAW/C/AUL/CO/7, para. 35) that the State party adopt targeted measures with clear time frames, such as statutory quotas and a zipper system (i.e., a requirement that candidates on electoral lists alternate between men and women) for elections at the national, state, territory and municipal levels, in accordance with article 4 (1) of the Convention and the Committee's general recommendation No. 25 (2004) on temporary special measures, to accelerate the participation of women in political and public life, especially with regard to indigenous women and women with disabilities, and the participation of migrant women and their daughters, including those born in the State party, in public life.**

Women and peace and security

37. The Committee welcomes the ongoing consultations with civil society to develop a second national action plan on women and peace and security. It is concerned, however, about the following:

(a) The State party's focus on gender equality at the international level not being reflected in national security policies and practices;

(b) The defence budget, which amounts to 2 per cent of the State party's gross domestic product, not containing a specific allocation for women and peace and security;

(c) The State party's plans to become one of the world's top 10 exporters of military hardware, possibly contradicting its engagement in the implementation of Security Council resolution 1325 (2000) and subsequent resolutions on women and peace and security.

38. **In line with general recommendation No. 30, the Committee recommends that the State party:**

(a) **Integrate the gender-sensitive approach taken in its international peace agenda into national security policies and practices;**

(b) **Allocate specific resources for the implementation of its second national action plan on women and peace and security;**

(c) **Undertake a gender-sensitive and gender-responsive analysis of the security sector, including arms exports, in consultation with women's organizations, to address the different security experiences, needs and priorities of women.**

Nationality

39. The Committee is concerned about the disproportionately low rates of birth registration among indigenous communities, limiting access for indigenous women and girls to education, health and social services.

40. **The Committee recommends that the State party intensify efforts to facilitate birth registration in indigenous communities, in particular in rural areas, including by removing penalties for late registration and reinforcing mobile registration services.**

Education

41. The Committee welcomes the launch of the Connected Beginnings programme to eliminate barriers to access to education and barriers to educational attainment for indigenous women and girls. It is concerned, however, about the following:

(a) Inconsistent data collection on educational enrolment, achievement and attrition rates among states and territories, especially with regard to women and girls belonging to indigenous communities, women and girls with disabilities and migrant women and their daughters, including those born in the State party;

(b) The laws on education in certain states and territories that allow for the suspension or expulsion of pregnant students and young mothers;

(c) The low proportion of less than 1 in 20 girls, compared with 1 in 5 boys, who envisage a career in the fields of science, technology, engineering and mathematics, in which jobs are high-paying and in high demand;

(d) The lack of temporary special measures to promote the participation of indigenous women and girls in the fields of science, technology, engineering and mathematics;

(e) The impact of harassment and bullying in school environments on women and girls who are exposed to intersecting forms of discrimination, and the withdrawal of funding for the Safe Schools programme.

42. **In line with its general recommendation No. 36 (2017) on the right of girls and women to education, the Committee recommends that the State party:**

(a) **Ensure that its multi-agency data integration project includes data on the educational enrolment and attainment of girls and women at all levels of education, disaggregated by age, ethnicity, disability and migration status;**

(b) **Implement the recommendations issued by the Children's Commissioner in 2017 to prohibit suspension, expulsion and denial of education on the basis of pregnancy or motherhood and ensure that there are no restrictions on the return of young mothers to education after childbirth;**

(c) **Implement plans to establish a science, technology, engineering and mathematics academy for indigenous girls and make use of information and communications technology to reach remote regions with specialized instruction;**

(d) **Adopt temporary special measures to promote the participation of indigenous women and girls in the fields of science, technology, engineering and mathematics and provide more scholarships in those fields;**

(e) **Build the capacities of educational staff to create safer and more inclusive learning environments, including for indigenous women and girls, women and girls with disabilities, migrant women and their daughters, including those born in the State party, lesbian, bisexual and transgender women and intersex persons.**

Employment

43. The Committee welcomes the State party's initiatives to work with businesses to increase the participation of women in leadership positions. However, the Committee notes the following with concern:

(a) That industrial and occupational segregation together account for 30 per cent of the 15.3 per cent gender pay gap;

(b) The lack of obligations on employers regarding flexible working arrangements, which contributes to the overrepresentation of women in part-time work and lower-paid sectors;

(c) The lack of incentives for the reconciliation of work and family responsibilities, which results in only 15 per cent of infants being breastfed up to the age of five months;

(d) That parental leave is paid at the minimum wage, for only 18 weeks and is not counted towards superannuation benefits;

(e) That the average superannuation balance for men is 37 per cent higher than for women, which puts women at a particularly high risk of poverty and homelessness in old age.

44. **The Committee recommends that the State party implement the recommendations of the 2017 inquiry into gender segregation in the workplace, and also recommends that it:**

(a) **Reinforce measures to address industrial and occupational segregation and establish a national policy framework to implement the principle of equal pay for work of equal value with a defined target date for pay equity;**

(b) **Implement the recommendations contained in the report of the Australian Human Rights Commission, entitled "Supporting working parents: pregnancy and return to work national review", including by imposing a duty on**

employers to reasonably accommodate requests for flexible working arrangements;

(c) Introduce a code of practice regarding the legal obligations of employers with regard to pregnant employees and employees with family obligations, and raise awareness of those obligations among employers;

(d) Guarantee a minimum of 26 weeks' paid maternity leave, which should be remunerated at the mother's actual revenue level, introduce at least an additional four weeks of paid leave to be taken by the supporting parent, and count the entirety of such periods of leave towards superannuation benefits;

(e) Conduct a gender-impact analysis of the superannuation system, taking into account disparities linked to the role of women in the provision of care, to eliminate disadvantages affecting women.

Social and economic benefits

45. The Committee considers that some of the State party's recent cuts to social, health, education and justice budgets, its reduction of taxes for high-income groups and its increase of the defence budget represent a setback in the implementation of the Convention and of the Sustainable Development Goals. The Committee is especially concerned about the following:

(a) The impact of those measures on women and the lack of any gender-impact analysis of those measures;

(b) Budget cuts in services that focus on women's rights and cuts in the funding of women's organizations;

(c) The fact that single-headed households, 83 per cent of which are headed by women, in particular are suffering the impact of the recent rise in prices for utilities and the loss of financial support, resulting in high debt levels and in one in five children experiencing food insecurity;

(d) The fact that young mothers must pay back student loans, even with low income levels, the high rate at which they abandon their studies and that they receive childcare subsidies only if they are employed, which places them at risk of long-term welfare dependency and of their children being subject to out-of-home placement as a result of their situation of poverty;

(e) The high rate of homelessness among women, with the fastest-growing homelessness rate being among women over the age of 55.

46. **The Committee recommends that the State party:**

(a) Take immediate measures to mitigate the effects of recent budget cuts to social, health, education and justice budgets, undertake a gender-impact analysis of those cuts and implement gender-responsive budgeting in the allocation of public resources;

(b) Reinstate funding to services that focus on women's rights and to women's organizations, including to those which focus on the rights of indigenous women;

(c) Strengthen the support provided to families and single-headed households to ensure an adequate standard of living, reduce out-of-home placements and address food insecurity;

(d) Adopt targeted measures and programmes for the economic empowerment of single mothers, including measures that allow them to complete

higher education, and restore access to childcare subsidies for women who are not employed;

(e) **Enhance access for women to affordable housing, both public and private, and take measures to ensure that older women have access to adequate housing that meets their specific needs, in line with the Committee's general recommendation No. 27 (2010) on older women and the protection of their human rights.**

Sexual harassment

47. The Committee notes with concern that 48 per cent of women in the State party have experienced sexual harassment in the workplace and that fear of dismissal often prevents them from reporting such incidents. It is also concerned that 1 in 10 women have been sexually harassed at university over the past two years.

48. **The Committee recommends that the State party address the sexual harassment of women in the workplace and in educational settings, taking into account the existing and forthcoming recommendations of the Australian Human Rights Commission concerning sexual harassment, encourage reporting, adopt gender-sensitive investigation methods and impose appropriate sanctions on perpetrators.**

Health

49. The Committee acknowledges the comprehensive health coverage in the State party. It notes the following, however, with concern:

(a) The lack of harmonization in state and territory legislation on abortion and the harassment and discrimination of women and girls seeking abortion services;

(b) The deteriorating mental health situation of women and girls facing intersecting forms of discrimination;

(c) That only severe mental health disabilities are addressed through the national disability insurance scheme;

(d) That indigenous women, migrant women and their daughters, including those born in the State party, lesbian, bisexual and transgender women and intersex persons face discrimination by health service providers or through insufficient access to health services;

(e) That some states have a requirement that medical procedures have been performed, in order for persons to change their legal gender.

50. **The Committee recommends that the State party:**

(a) **Implement the recommendation made by the Children's Commissioner in 2017 to review state and territory laws, policies and practices to guarantee access to legal and prescribed abortion services and to raise awareness of sexual and reproductive health rights among women and girls, parents, teachers, medical professionals and the general public and create safe zones around abortion clinics;**

(b) **Increase efforts and resources to address the deteriorating mental health situation of women and girls, in particular young mothers, indigenous women, women with disabilities, women in detention, migrant women and their daughters, including those born in the State party, lesbian, bisexual and transgender women and intersex persons, and reinforce preventive measures;**

(c) **Allocate sufficient funding to the national disability insurance scheme to extend coverage for mental health services to women and girls with all types of mental health disorders and disabilities;**

(d) **Ensure access to non-discriminatory health services for indigenous women, migrant women and their daughters, including those born in the State party, lesbian, bisexual and transgender women and intersex persons;**

(e) **Abolish requirements regarding medical treatment for transgender women who wish to obtain legal recognition of their gender, ensure that those requirements are abolished throughout the State party's territory and guarantee the rights of transgender women to bodily integrity, autonomy and self-determination.**

Aboriginal and Torres Strait Islander women

51. The Committee welcomes the conduct of the Wiyi Yani U Thangani (Women's Voices) consultation process and the commitment of the Council of Australian Governments to update the Closing the Gap agenda in consultation with indigenous leaders, organizations and communities. It is concerned, however, about the following:

(a) The insufficient allocation of funding to the National Congress of Australia's First Peoples;

(b) The fact that indigenous women face difficulties in gaining access to health services and discriminatory treatment by health-care providers and have an average life expectancy at birth that is 9.5 years lower than that of non-indigenous women;

(c) The lower rates of education completion among indigenous girls and women, compared with non-indigenous women, which are linked to a lack of secondary schools in remote communities, discrimination against indigenous girls in educational settings and insufficient promotion of the empowerment of First Nations;

(d) The fact that indigenous women face a disproportionately high risk of homelessness and of living in overcrowded and poor housing conditions;

(e) The disproportionately high unemployment rates among indigenous women;

(f) The fact that indigenous women face an extremely high risk of domestic violence and sexual assault compared with non-indigenous women;

(g) The fact that indigenous women are far more likely to be imprisoned than non-indigenous women, and often for minor offences;

(h) The large number of indigenous children taken from their mothers and placed in out-of-home care;

(i) The high suicide rates among indigenous women;

(j) The excessive burden of proof on indigenous women seeking to claim native title rights to lands and waters under the Native Title Act.

52. **The Committee recommends that the State party:**

(a) **Increase funding for the National Congress of Australia's First Peoples, in line with the recommendations made in the context of the universal periodic review (A/HRC/31/14, recommendations 136.88 and 136.87);**

(b) Increase funding for the provision of culturally appropriate, gender-sensitive and non-discriminatory health-care services and for the training of indigenous health professionals, including in rural and remote areas;

(c) Build on the outcomes of the impact evaluation of the Connected Beginnings programme, in order to promote access for indigenous women and girls to education and their educational attainment, increase the number of secondary schools in rural and remote areas, consult with indigenous communities when developing education policies and incorporate education on the First Nations into regular school curricula;

(d) Ensure long-term funding for safe, secure and affordable housing for indigenous women, including through the National Affordable Housing Agreement;

(e) Consult with indigenous women to strengthen incentives and long-term employment opportunities in remote areas through the Community Development Programme;

(f) Elaborate, in collaboration with indigenous women and girls, a specific national action plan on violence against indigenous women and girls;

(g) Strengthen holistic early intervention, prevention and diversion strategies, as well as non-custodial alternatives to detention, abolish so-called "paperless arrest" and mandatory sentencing laws, taking into account the relevant recommendations contained in the 2017 report of the Australian Law Reform Commission entitled *Pathways to Justice: Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples* and the outcomes of the Wiyi Yani U Thangani (Women's Voices) consultation process;

(h) Ensure implementation of the Aboriginal and Torres Strait Islander child-placement principle in all cases and develop, in consultation with indigenous organizations, a national strategy to eliminate the overrepresentation of indigenous children in out-of-home care;

(i) Finalize the national strategic framework for the mental health and social and emotional well-being of Aboriginal and Torres Strait Islander peoples, guarantee appropriate resources for its implementation and address intergenerational trauma in culturally appropriate and effective ways;

(j) Train more indigenous legal professionals to provide legal assistance to indigenous women, including to make claims under the Native Title Act and other statutory land rights schemes.

Refugee and asylum-seeking women

53. The Committee is concerned that the State party has violated its obligations under international human rights and humanitarian laws, including by outsourcing the processing of refugee claims offshore, transgressing non-refoulement obligations and separating families. The Committee is particularly concerned that women and girls seeking asylum in the State party:

(a) Are prevented from claiming asylum in the State party owing to the practice of intercepting and returning asylum seekers arriving by sea, under Operation Sovereign Borders;

(b) Are subjected to processing at sea and offshore processing in Nauru, where they are deprived of the right to fair and efficient asylum procedures, legal representation and the right to appeal the first-instance decision;

(c) Are subjected to mandatory immigration detention, whether onshore or offshore;

(d) May endure transfers to third countries for abortions and medical treatment;

(e) Are separated from their families as a result of immigration detention or offshore transfers for medical treatment;

(f) Are subject to restrictions on access to social, education and health services, as well as employment, whether in Nauru or on the territory of the State party;

(g) Are exposed to further restrictions on access to status resolution support services, as from 1 July 2018;

(h) Are exposed to rape, sexual abuse and physical harm, perpetrated with impunity, by security guards, service providers, refugees and asylum seekers and members of the local community in Nauru, with the women who are victims of such violence left without access to justice;

(i) Are subjected to long waiting periods, during which they remain in detention or in processing centres, even when granted international protection.

54. **The Committee reminds the State party that, in line with the Committee's general recommendation No. 32 (2014) on the gender-related dimensions of refugee status, asylum, nationality and statelessness of women and general recommendation No. 28, it is responsible for all its actions affecting human rights, regardless of whether the persons affected are on its territory or not, and that all persons who attempt to enter its territory and are subject to Australian refugee status determination procedures, whether onshore or offshore, fall under the responsibility of the State party. It recommends that the State party:**

(a) **Stop intercepting and returning asylum-seeking women and girls arriving by sea and guarantee that they can claim asylum on its territory;**

(b) **Stop offshore processing in Nauru and the processing of asylum claims at sea, and ensure that all women and girls seeking asylum have access to gender-sensitive and fair refugee status determination processes within the territory of the State party and to legal representation and legal remedies;**

(c) **Repeal provisions on the mandatory detention of asylum seekers and ensure, in the interim, that detention is used only as a last resort;**

(d) **Guarantee that all refugee and asylum-seeking women and girls who are under the responsibility of the State party have access to comprehensive, adequate and accessible sexual and reproductive health services and information, including to emergency contraception and abortion services, on its territory;**

(e) **Uphold the fundamental right to family unity;**

(f) **Guarantee that refugee and asylum-seeking women and girls have unconditional access to gender-, age-, culture- and language-appropriate social, education, mental and physical health services on the territory of the State party;**

(g) **Reinstate access to status resolution support services for all asylum-seeking women and girls;**

(h) **Ensure that all immigration facilities under the responsibility of the State party adhere to standards for the prevention of sexual and gender-based violence, investigate all complaints of sexual and physical violence against**

women and girls, including rape, bring perpetrators to justice and guarantee that they are punished, and provide redress and adequate compensation to victims;

(i) **Take the measures necessary to grant immediate access to its territory to all women who have been granted international protection.**

Women in detention

55. The Committee welcomes the conduct of a study on best practices for prisons for women. It is concerned, however, about the following:

(a) Overcrowding in prisons for women;

(b) High rates of mental health disorders among women in detention and their insufficient access to mental and physical health care;

(c) Reports of sexual violence perpetrated by prison officers against women in detention;

(d) The practice of conducting strip-searches in prisons.

56. **In accordance with the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules), the Committee recommends that the State party:**

(a) **Develop programmes that address the needs of women in prison and promote alternatives to detention, especially for indigenous women who are detained for minor offences;**

(b) **Ensure that women and girls in detention undergo comprehensive screening to determine their mental and physical health-care needs and that they have access to health services in line with their needs;**

(c) **Ensure that all staff in detention facilities receive mandatory training on women's rights and on gender-sensitive behaviour and that women in detention have confidential and effective access to independent judicial and other complaint procedures;**

(d) **Investigate, prosecute and punish all cases of sexual violence against women in detention;**

(e) **Replace strip-searches with alternative screening methods.**

Marriage and family relations

57. The Committee is concerned about the high percentage of children in out-of-home placements in the State party, and about the following:

(a) Gender-neutral provisions of the Family Law Act on equal shared parental responsibility may have an adverse impact on the safety of children upon dissolution of family relations;

(b) Religious practices, such as the Jewish *get*, prevent women from exercising their right to remarry freely after divorce, leaving them in situations of forced continuation of religious marriage, also referred to as "marital captivity".

58. **The Committee recommends that the State party place children in out-of-home care only as a last resort, and that it:**

(a) **Review gender-neutral provisions in the Family Law Act, taking into account the results of the ongoing review of the family law system, and guarantee**

that gender-based violence against women in the domestic sphere is taken into account in child custody decisions;

(b) Implement the recommendation made by the Family Law Council in 2001 to provide courts with discretionary powers to adjudicate on matters involving cultural-community divorce, so as to prevent and free women from the forced continuation of religious marriage.

Beijing Declaration and Platform for Action

59. **The Committee calls upon the State party to use the Beijing Declaration and Platform for Action in its efforts to implement the provisions of the Convention.**

Dissemination

60. **The Committee requests the State party to ensure the timely dissemination of the present concluding observations, in the de facto official language of the State party, to the relevant State institutions at all levels (national, regional and local), in particular to the Government, the ministries, Parliament and the judiciary, to enable their full implementation.**

Ratification of other treaties

61. **The Committee notes that the adherence of the State party to the nine major international human rights instruments [1] would enhance the enjoyment by women of their human rights and fundamental freedoms in all aspects of life. The Committee therefore encourages the State party to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the International Convention for the Protection of all Persons from Enforced Disappearance, to which it is not yet a party.**

Follow-up to the concluding observations

62. **The Committee requests the State party to provide, within two years, written information on the steps taken to implement the recommendations contained in paragraphs 12 (b), 46 (b), 50 (a) and 54 (b) above.**

Preparation of the next report

63. **The Committee requests the State party to submit its ninth periodic report, which is due in July 2022. The report should be submitted on time and cover the entire period up to the time of its submission.**

64. **The Committee requests the State party to follow the harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document and treaty-specific documents (see HRI/GEN/2/Rev.6, chap. I).**

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[1] The International Covenant on Economic, Social and Cultural Rights; the International Covenant on Civil and Political Rights; the International Convention on the Elimination of All Forms of Racial Discrimination; the Convention on the Elimination of All Forms of Discrimination against Women; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Convention on the Rights of the Child; the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; the International Convention for the Protection of All Persons from Enforced Disappearance; and the Convention on the Rights of Persons with Disabilities.